

Decision 05-03-005 March 17, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into
Implementation of Assembly Bill 140,
Establishing the Rural Telecommunications
Infrastructure Grant Program.

Rulemaking 03-02-034
(Filed February 27, 2003)

OPINION CLOSING PROCEEDING

I. Summary

Today's decision closes this proceeding after adopting the interim grant program administration rules as final rules.

II. Background

We issued this order instituting rulemaking (OIR) into the implementation of California Assembly Bill (AB) 140 (Stats. 2001, Ch. 903), enacted on October 14, 2001, which created the Rural Telecommunications Infrastructure Grant Program. AB 140, codified at Pub. Util. Code § 276.5,¹ with a funding level capped at \$10 million per year, enables unserved communities to apply for grants of up to \$2.5 million for the construction of telecommunications infrastructure. AB 140 requires that grant proposals be submitted in accordance with procedures prescribed by the Commission and evaluated and awarded by

¹ All statutory citations refer to the Pub. Util. Code, unless otherwise noted. AB 2758 amended Section 276.5 to extend the rural infrastructure grant program until January 1, 2008.

the Commission using technology criteria developed by a government-industry working group.

On September 18, 2003, we issued an interim opinion, Decision (D.) 03-09-071, that implemented eligibility criteria for community-based groups to qualify to apply for telecommunications rural infrastructure grants and adopted interim grant program administration rules. D.03-09-071 contemplated comments on the interim grant program administration rules, because we adopted those rules at the request of the parties but did not separately notice them for comment.

In the meantime, Resolution T-16846 awarded the first three rural infrastructure grants on June 9, 2004. Because the application and award process proceeded smoothly, the Administrative Law Judge solicited comment on whether there were issues this proceeding should resolve before it was closed. No party submitted comments.

III. Discussion

The interim grant program administration rules adopted in D.03-09-071, in conjunction with eligibility criteria, the approved application process and the creation of a working group, have permitted the efficient award of rural infrastructure grants. The grant program administration rules are as follows:

- Staff initially selects qualifying applicants and proposes for our consideration by resolution the applications to which we should award grants.
- Each grant applicant shall have an approved fiscal agent.
- All funds disbursed from the grant program shall be kept and maintained in a separate and distinct bank account with the approved fiscal agent as the sole trustee of such funds.

- The fiscal agent shall provide the account information 60 days prior to the first request for disbursement according to the approved payment schedule.
- Payments will be made after completion of approved milestones and upon request for payment from the fiscal agent according to the approved payment schedule. Payment requests shall include an itemized accounting of reimbursable amounts. The Commission shall disburse the funds within 60 days of receipt of a complete request for payment that conforms to the approved payment schedule or as soon thereafter as is otherwise practicable.²
- Rejected grant applicants shall submit a request for reimbursement and an itemized accounting of reimbursable amounts to the Commission within 90 days of the mailing of the notification rejecting the phase II, feasibility/construction, application.
- All funds shall be spent exclusively on telecommunications infrastructure and amounts necessary to comply with Commission grant administration directives.
- The fiscal agent shall provide an accounting, including expenditures and account balances, on a quarterly basis until no funds remain in the account. Upon completion of the infrastructure work, records shall be reviewed by an independent Certified Public Accountant and an Attestation Report should be submitted to the Commission to ensure that the work was completed and paid for as represented.
- Grant recipients shall complete the infrastructure work according to the approved milestones for project deliverables. Unanticipated construction and implementation delays shall be reported to the Commission within 60 days of failure to achieve an approved milestone.

² Budgetary constraints or other factors may delay release of funds.

- Failure to secure funding for project costs exceeding the required project cap also shall be reported to the Commission within 60 days of the failure to secure funding.

No party recommends any change to the interim rules. Therefore, they should be adopted as the final rules.

IV. Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. We received no comments.

V. Assignment of Proceeding.

President Michael R. Peevey is the Assigned Commissioner, and Janice Grau is the assigned ALJ in this proceeding.

Findings of Fact

1. D.03-09-071 adopted interim grant program administration rules.
2. No party objected to adoption of grant program administration rules as final rules.

Conclusions of Law

1. We should adopt the interim grant program administration rules adopted in D.03-09-071 as final rules.
2. In order to permit the grant program to proceed efficiently and without interruption, this order should be effective today.

O R D E R

IT IS ORDERED that:

1. The interim grant program administration rules are adopted as final rules as set forth herein.
2. This proceeding is closed.

This order is effective today.

Dated March 17, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners